***THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY**

+WRIT PETITION No. W.P. No.1350 of 1998

%Dated 29-08-2007

 # Between:

P. Chandrahas,
Kohir, Medak District.

... Petitioner

AND

The Presiding Officer,
Labour Court-II,
Hyderabad and others.

... Respondents

! Counsel for Petitioner: Sri P.Ravi Mohan, Advocate

^Counsel for Respondents: Sri V.S.K. Rama Rao for the Standing Counsel

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> HEAD NOTE:

? Cases referred

1 AIR 1963 SC 1723
2 AIR 1975 SC 2151
3 AIR 1976 SC 1080
4 AIR 1983 SC 1102
5 (1996) 6 SCC 750
6 (2000) 1 SCC 416
7 AIR 1997 SC 1030
8 (2006) 2 SCC 584
9 (1999) 3 SCC 679

10 (2006) 5 SCC 446

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… Respondents

Counsel for the petitioner : Sri G.Ravi Mohan

Counsel for respondent No.2 : Sri V.S.K. Rama Rao for
The Standing Counsel

O R D E R:

1. This writ petition is filed against the award dated 19-9-1997 passed by the Labour Court-II, Hyderabad in I.D.No.125 of 1996 whereby it declined to interfere with the order of removal passed by respondent No.2, as confirmed by the Appellate Authority.

2. The brief facts of the case are summarized as under:-

3. The petitioner was appointed as a Cleaner at Zahirabad Depot on 7-11-1989. On 1-7-1995, after completing his duty,
he boarded the bus bearing No.AP-9 Z-5301, bound for Sangareddy, which was evidently his place of residence. The checking officials intercepted the bus and conducted a check. During the check, the petitioner was asked to show the ticket. When he replied that he is an employee of the Corporation he was asked to show the identity card. It appears there was some delay in the petitioner showing the identity card and this led to friction between him and the checking staff. The

petitioner was taken to Sadasivpet Police Station and a crime was registered against him for the offences under Sections 510, 186 and 504 IPC. On the complaint of the checking officials, respondent No.2 framed four charges, which read as under:-

> "i) For having travelled from Zahirabad to Sanga Reddy on 02-7-1995 in Bus No.AP 9Z 5301 without ticket which is mis-conduct in terms of Regulation 28 (xxviii) of APSRTC Employees' (conduct) Regulations, 1963.
>
> ii) For having failed to produce your Identity Card to the Checking Official while travelling on Bus No.AP-9 Z-5301 on route Zahirabad-Sangareddy which is misconduct in terms of Reg.28(viii) of APSRTC Employees' (conduct) Reg.1963.
>
> iii) For having interfered in the duties of checking officials which is misconduct in terms of Regulation-28(xxxi) of APSRTC Employees (conduct) Regulation, 1963.
>
> iv) For having assaulted and abused Checking Officials which is misconduct in terms of Reg.28 (xi) of APSRTC Employees' (conduct) Regulations, 1963."

4. An Enquiry Officer was appointed and after conducting enquiry he submitted his report. After considering the report and the explanation offered by the petitioner, respondent No.2 vide his order dated 23-1-1996 terminated the services of the petitioner. The appeal filed by the petitioner to the appellate authority having failed, he moved the Labour Court by raising industrial dispute registered as I.D.No.125 of 1996. The Labour Court by the impugned award declined to interfere with the penalty imposed on the petitioner.

5. Heard Sri G.Ravi Mohan, learned counsel for the petitioner and Sri V.S.K.Rama Rao, learned counsel representing the Standing Counsel for respondent No.2. Records are carefully perused.

6. The learned counsel for the petitioner strongly contended that the Disciplinary Authority, the Appellate Authority and the Labour Court committed serious errors in holding the petitioner guilty of the charges framed against him. He submitted that the finding of the enquiry officer as accepted by the departmental authorities and the Labour Court are based on no evidence.

He further contended that charge Nos.1 and 2 even if held proved do not constitute misconduct warranting imposition of any penalty on an employee and that except the evidence of one of the two checking officials, namely; Sri Basi Reddy (TTI), no other witness examined as enquiry officer, supported the case of the department and that since the competent Criminal Court after full dressed trial of the criminal case disbelieved the evidence of Sri Basi Reddy, there is virtually no evidence in support of charge Nos.3 to 5. The learned counsel, therefore, submits that the penalty of removal of service imposed on the petitioner under the orders of the disciplinary authority which was confirmed by the appellate authority and the Labour Court are liable to be set aside.

7. Sri V.S.K.Rama Rao however, sought to support the award of the Labour Court and the orders passed by the departmental authorities. He contended that in departmental proceedings strict proof beyond reasonable doubt is not required and that the material available on record on the basis of which the petitioner was held guilty was

sufficient to hold that the petitioner is guilty of misconduct on the basis of probabilities. He further submitted that when there is some evidence to justify the conclusion of guilt, the Court would not interfere with such conclusion on the ground of insufficient of evidence.

8. I have carefully considered the respective submissions of the learned counsel for the parties. Before I go into the facts of the case, it is necessary to refer to the settled legal position on the scope of judicial review by superior Courts exercising powers under Article 226 or Section 32 in matters pertaining to disciplinary proceedings as held by the Supreme Court in **STATE OF ANDHRA PRADESH v. S. SREE RAMA RAO**[1], **STATE OF ANDHRA PRADESH v. CHITRA VENKATA RAO**[2], **K.L.SHINDE v. STATE OF MYSORE**[3], **JIWAN MAL KOCHAR v. UNION OF INDIA**[4], **B.C.CHATURVEDI v. UNION OF INDIA**[5], **HIGH COURT OF JUDICATURE AT BOMBAY THROUGH ITS REGISTRAR v. SHASHIKANT S PATIL**[6], **INDIAN OIL CORPORATION LIMITED v. ASHOK KUMAR ARORA**[7], **SOUTH BENGAL STATE TRANSPORT CORPN v. SWAPAN KUMAR MITRA**[8]

Keeping in view the abovementioned judicial precedents, I shall examine whether the case on hand warrants interference by this Court with the punishment imposed on the petitioner.

9. From the charges extracted hereinbefore, it is clear that charge No.1 pertains to the petitioner traveling without a ticket. The charge refers to Regulation 28 (xxxiii) of A.P.S.R.T.C Employees' (conduct) Regulations, 1963 (for short "the Regulations"), which reads as under:-

> "Misuse of any concession or facility such as free or concessional passes etc., granted to its employees by the Corporation"

The above extracted regulation is attracted if an employee is given concession or facility such as free or concessional passes and he misuses such pass or concession. The charge against the petitioner is that he was found travelling without a ticket. Ex facie, Regulation 28 (xxviii) has no application at all to the charge levelled against the petitioner, because ticketless travel is not covered by the said regulation.

10. Similarly, under charge No.2, the petitioner was imputed with the alleged misconduct of not producing his identity card to the checking officials while travelling in the bus. He was therefore charged for violating Regulation 28 (viii) of the Regulations. A reading of the aforementioned regulation clearly shows that they do not specifically deal with either a case of an employee travelling without a ticket or an employee failing to produce the identity card when demanded. Though separate charges by way of charge Nos.1 and 2 are framed, both the charges relate to two successive sequences of the same event. In other words, the petitioner's failure to buy a ticket led to the consequence of the checking officials demanding him to show the identity card. In normal course, these situations are mutually exclusive i.e., had the petitioner bought the ticket, there would have been no occasion for the checking officials to demand production of identity card by the petitioner and if the petitioner had produced identity card, perhaps the officials would not have insisted on the petitioner buying a ticket. In any event, the alleged misconduct mainly stems from the fact of the petitioner travelling without a ticket and production or non production of identity card in that sense was wholly inconsequential

had a ticket been bought by the petitioner. Therefore, ultimately extending the charge to its maximum possible extent, the gravamen of the accusation against the petitioner is that he was travelling without a ticket. Whether this amounts to misconduct is the question to be considered. As already noticed, there is no specific regulation, which envisages that if an employee travels in the bus belonging to the Corporation without a ticket it constitutes misconduct. If the petitioner was not an employee and if had traveled without a ticket, the Corporation would have imposed penalty, which is prescribed against a ticketless passenger. In the absence of any regulation prescribing that such a ticketless traveller on the part of the employee constitutes misconduct, there was no justification to hold that the petitioner is guilty of misconduct under Regulation 28 (xxviii) of the Regulations.

11. With regard to the charge relating to the petitioner's failure to produce identity card, I have carefully gone through the evidence of Sri Basi Reddy, one of the checking officials and it is reads as under:-

> *"One passenger was in the cabin is in unstable condition indulging in loose talk. When we asked him about the ticket he has informed that he is a staff member. Then we asked him to show the identity card but he refused using filthy language. In the meantime we asked the service conductor to identify the passenger in question and the conductor identified him as P.Chandrahas, E. 253439, Cleaner of Zahirabad Depot. Then we asked the conductor to give in writing about the incident and Sri P.Chandrahas approached him and cautioned him that the statement of conductor shall not be recorded. Then the Conductor and passengers managed to obtain the identity card from Sri P.Chandrahas, Cleaner……"*

Accepting the aforementioned statement on its face value, it is clear that the petitioner's identity was not in doubt. The moment, the checking officials asked the conductor about the identity of the

petitioner, he immediately identified the petitioner as the Cleaner, E. 253439 of Zahirabad Depot. It is also clear from the above reproduced statement that the identity card of the petitioner was also picked out with the help of the conductor and the passengers. In any event, failure to voluntarily produce the identity card can not be treated as such a serious misconduct as to attract Regulation 28 (xxviii) and warrant imposition of any punishment on an employee. This charge in my considered opinion is too trivial to be taken a serious note of and to impose any punishment.

12. To understand the scope of charge Nos.3 and 4 all the charges are required to be read together. The sum and substance of these charges is that when the petitioner was travelling in Bus No. AP-9 Z 5301 on 02-07-1995, the checking officials asked the petitioner to produce the ticket. The petitioner at that time was under the influence of alcohol and he failed to produce the ticket. He abused the officials in filthy language. When demanded, the petitioner failed to produce the identity card. The petitioner assaulted one of the checking officials and thereby interfered in the duties of checking officials, which constitutes misconduct under the Regulation 28 (xxviii), (xi) and (xv) of the Regulations.

13. The enquiry officer examined Sri G.Sailoo, Service Conductor, Sri B.Hanumanthu, Driver who is on duty and Sri Basi Reddy, TTI. Besides these official witnesses, the enquiry officer examined Sri M.Jagan and Sri P.Veera Reddy, who were passengers traveling in the bus at the time of the incident. They were examined at the instance of the petitioner. Sri B.Hanumanthu, the driver on duty deposed as under:-

"On 2.7.1995 about 17.55 hrs in the area of 8 Kms of

Sadasivpet the TTIs Sri Basi Reddy, E.28797, ZES, Hyderabad and Sri S.Krishna Murthy, E-37880, ZES, Hyderabad have exercised a check on our bus No.AP.9 Z 5301 conducted by Sri G.Sailoo, E.130816, conductor and driven by me. The TTIs approached P.Chandrahas, Cleaner who was standing in the cabin by the side of the driver (on the left side) and asked for ticket. While P.Chandrahas was taking out his identity card the TTIs assaulted Sri P.Chandrahas, Cleaner. Then Sri P.Chandrahas fell down. P.Chandrahas has a bleeding injury on the left eye. Then they had taken P.Chandrahas to Sadasivpet Police Station in my bus……."

14. Sri G.Sailoo, the service conductor on duty at the time of the incident deposed that since there was heavy rush, he could not see what has transpired between the petitioner and the two TTIs.

He further deposed that there was an argument between the TTIs and the petitioner, and that by the time he went into the cabin, the identity card of the petitioner was in the hands of the TTIs. The petitioner used filthy language against the TTIs and TTIs have punched the petitioner who fell down and received injury on the cheek. He also deposed that on observing the petitioner, he felt that he was in an intoxicated state. He also deposed that he has not seen the petitioner assaulting the TTI Sri S.Krishna Murthy and that the petitioner was taken to Sadasivpet Police Station, where the conductor's statement was recorded.

15. Sri P.Veera Reddy, who is a passenger, deposed that he boarded the bus at Zahirabad to go to Sangareddy. At 12.00 hrs, the TTIs have boarded the bus at Sadasivpet and when they asked the petitioner to show the ticket, the petitioner replied that he is a staff member and when he was asked to produce the identity card, the petitioner told them that money was kept in the identity card and that after taking out the money, he will give the card. Then TTIs snatched away the card from the petitioner and hit him, due to which, he fell

down with bleeding injury and became unconscious. When the passengers questioned about the incident, the TTIs told them that the petitioner is their staff member and that they will look into the problem. In reply to the question asked by the enquiry officer that when he had not signed the spot statement, what made him to appear in the enquiry and whether he had evidence to show that he traveled in the bus, the witness replied that the TTIs asked him about his name and address, and when he told them, they have written his name as a witness. He also stated that the checking officials have noted down his name and that he will submit a xerox copy of ticket Nos.326/045793 of Rs.4.25 denomination and another ticket of Rs.5.25 denomination the next day. He further deposed that the conductor had issued correct ticket with ticket numbers for both Rs.4.25 and 5.25 denomination, but the TTIs tore the portion containing the ticket punch of Rs.5.25 denomination. Similar was the tenor of the evidence of Sri M. Jagan, recorded by the enquiry officer wherein he deposed on the same lines as that of Sri P.Veera Reddy.

16. The only witness who deposed in support of the charges and on whose testimony the enquiry officer held the petitioner guilty, was the evidence of Sri Basi Reddy, one of the TTIs who checked the vehicle. A part of his deposition was already extracted earlier. In addition, he stated, “when we asked the conductor to give in writing about the incident, Sri P.Chandrahas approached them and cautioned that the statement of conductor shall not be recorded. Then the conductor and the passengers managed to obtain the identity card from Sri P.Chandrahas, Cleaner. While the conductor was writing the statement, Sri P.Chandrahas interfered and caught hold of the hand of Sri S. Krishna Murty, TTI and twisted his fingers using filthy language. Meanwhile, we seized the identity card and obtained the statement of

service conductor and it was got attested by the service driver and the passengers. Thereafter, with the assistance of conductor, driver and passengers in the bus, Sri P.Chandrahas, Cleaner was handed over to the police at Sadasivpet and Sri S.Krishna Murthy, TTI was rushed to Government Hospital, Sadasivpet, later he was treated at Tarnaka Hospital, where it was found that two fingers of TTI were fractured. Subsequently, a charge memo No.574478, dated 2.7.1995 was prepared based on the complaint of service conductor and the same was sent to the Depot Manager, Zahirabad along with a special report."

17. The enquiry officer disregarded the evidence of Sri P.Veera Reddy and Sri M. Jagan mainly on the ground that they stated that the bus left Zaheerbad at 12.00 hrs but the bus actually left Zahirabad at 16.30 hrs on 2.7.1995. The evidence of G.Sailoo and Sri. Hanumanthu, the Conductor and Driver on duty respectively, was disbelieved by the enquiry officer on the ground that they retracted their stand taken in the spot statements.

18. From the evidence discussed above, it is clear that except one of the two checking officials, namely; Sri Basi Reddy, all other witnesses did not speak in support of the charges framed against the petitioner. Assuming that Veera Reddy and Jagan were planted by the petitioner as witnesses and the enquiry officer was justified eschewing their evidence, the conductor and driver on duty and the two eye witnesses did speak in one voice that the TTIs assaulted the petitioner and caused injuries to him. There is nothing to show that the spot statements allegedly given by the duty driver and conductor were supplied to the petitioner and marked in evidence before the enquiry officer. Therefore, those statements, in my considered view, cannot be

relied upon as evidence to contradict the evidence given by the two witnesses before the enquiry officer. To a reply to the enquiry officer's question that the conductor on duty attested statement recorded on the spot, the witness (the conductor) replied that he signed the statement recorded by the TTIs as per their version by force and that when asked whether he had any evidence to show that he was made to sign by force, he replied in the negative. When a similar question was put to the driver (B.Hanumanthu), he deposed that he has not gone through the contents of the statements prepared by the TTIs, but signed under the threat of TTIs. As already mentioned, based on the sole testimony of Sri Basi Reddy and the spot statements prepared by the TTIs and signed by the driver and conductor, the enquiry officer held all four charges proved against the petitioner.

19. The criminal case filed against the petitioner in connection with the same incident ended in his honourable acquittal.

The prosecution examined the *de facto* complainant-Sri S.Krishna Murthy and Sri Basi Reddy, the two TTIs who conducted the check. The driver and conductor on duty were not examined by the prosecution. The learned Principal Munsif Magistrate, Sangareddy while observing that the non-examination of the two witnesses, namely; the driver and conductor was fatal to the prosecution case held that the alleged use of filthy language does not constitute filthy or abusive language. The criminal court declined to accept the evidence of the two TTIs, in the absence of corroboration by the other eyewitness to the incident such as the driver and the conductor. The learned Magistrate also held that the prosecution failed to examine Dr. Sathish Kumar, who allegedly gave the medical certificate opining that the petitioner was in drunken state and that, therefore, the prosecution failed to prove that the petitioner was drunk. It is also pointed out that

the prosecution failed to examine the investigating officer and that by failing to examine the driver, conductor, the Doctor and investigating officer by the prosecution, the prosecution failed to establish the charge against the petitioner that he was in drunken state and he abused the two TTIs who were examined as P.Ws.1 and 2 in the criminal case. The learned Magistrate also held that the prosecution failed to establish that the petitioner obstructed the two TTIs from discharging their duties.

20. It is no doubt true that as held by the Supreme Court in the judgments referred to supra that the degree of proof varies between the criminal case and the departmental proceedings, because, in the former, it is the proof beyond reasonable doubt which is *Sine qua non* while in the latter, even the preponderance of probabilities is enough to hold an employee guilty of misconduct. It is also well settled that on mere acquittal by a criminal court an employee would not be automatically entitle to reinstatement. However, the Supreme Court in **Capt. M.Paul Anthony v. Bharat Gold Mines Limited and another**[9] and **G.M.Tank v. State of Gujarat**[10] considered cases involved similar situations.

21. In para 34 of the judgment in **Capt. M.Paul Anthony (9 supra)** the Supreme Court held as under:

> "34) There is yet another reason for discarding the whole of the case of the respondents. As pointed out earlier, the criminal case as also the departmental proceedings were based on identical set of facts, namely, "the raid conducted at the appellant's residence and recovery of incriminating articles therefrom". The findings recorded by the enquiry officer, a copy of which has been placed before us, indicate that the charges framed against the appellant were sought to be proved by police

officers and panch witnesses, who had raided the house of the appellant and had effected recovery. They were the only witnesses examined by the enquiry officer and the enquiry officer, relying upon their statements, came to the conclusion that the charges were established against the appellant. The same witnesses were examined in the criminal case but the Court, on a consideration of the entire evidence, came to the conclusion that no search was conducted nor was any recovery made from the residence of the appellant. The whole case of the prosecution was thrown out and the appellant was acquitted. In this situation, therefore, where the appellant is acquitted by a judicial pronouncement with the finding that the "raid and recovery" at the residence of the appellant were not proved, it would be unjust, unfair and rather oppressive to allow the findings recorded at the ex parte departmental proceedings to stand."

In **G.M. Tank (10 supra)** the Supreme Court, after exhaustive consideration of case law on the aspect of effect of acquittal of the employee in a criminal case on the departmental proceedings held in paragraphs 20 and 30 as under:

"20) It is thus seen that this is a case of no evidence. There is no iota of evidence against the appellant to hold that the appellant is guilty of having illegally accumulated excess income by way of gratification. The respondent failed to prove the charges leveled against the appellant. It is not in dispute that the appellant being a public servant used to submit his yearly property return relating to his movable and immovable property and the appellant has also submitted his return in the year 1975 showing his entire movable and immovable assets. No query whatsoever was ever raised about the movable and immovable assets of the appellant. In fact, the respondent did not produce any evidence in support of and/or about the alleged charges levelled against the appellant. Likewise, the criminal

proceedings were initiated against the appellant for the alleged charges punishable under the provisions of PC. Act on the same set of facts and evidence. It was submitted that the departmental proceedings and the criminal case are based on identical and similar (verbatim) set of facts and evidence. The appellant has been honourably acquitted by the competent court on the same set of facts, evidence and witness and, therefore, the dismissal order based on same set of facts and evidence on the departmental side is liable to be set aside in the interest of justice.

30) The judgments relied on by the learned counsel appearing for the respondents are distinguishable on facts and on law. In this case, the departmental proceedings and the criminal case are based on identical and similar set of facts and the charge in a departmental case against the appellant and the charge before the Criminal Court are one and the same. It is true that the nature of charge in the departmental proceedings and in the criminal case is grave. The nature of the case launched against the appellant on the basis of evidence and material collected against him during enquiry and investigation and as reflected in the charge sheet, factors mentioned are one and the same. In other words, charges, evidence, witnesses and circumstances are one and the same. In the present case, criminal and departmental proceedings have already been noticed or granted on the same set of facts, namely, raid conducted at the appellant's residence, recovery of articles therefrom. The Investigating Officer, Mr. V. B. Raval and other departmental witnesses were the only witnesses examined by the enquiry officer who by relying upon their statement came to the conclusion that the charges were established against the appellant. The same witnesses were examined in the criminal case and the criminal court on the examination came to the conclusion that the prosecution has not proved the guilt alleged against the appellant beyond any reasonable doubt and acquitted the appellant by his judicial

> pronouncement with the finding that the charge has not been proved. It is also to be noticed that the judicial pronouncement was made after a regular trial and on hot contest. Under these circumstances, it would. be unjust and unfair and rather oppressive to allow the findings recorded in the departmental proceedings to stand.

22. When the judgment of the Criminal Court was placed before the Lobour Court, it has distinguished the said judgment by holding that the material witnesses were not examined in the criminal case and, therefore, the Criminal Court held that the prosecution failed to establish the guilt of the accused. I have not felt impressed by this distinction drawn by the Labour Court in this regard. Indeed, it is required to be pointed out that in the criminal case the direct witnesses, namely; both the TTIs gave evidence before the Criminal Court. But, their evidence was disbelieved in the absence of any corroboration by other witnesses. The other witnesses, who were examined before the enquiry officer did not support the charges against the petitioner at least to the extent of the petitioner assaulting one of the two TTIs. In fact, the conductor even went to the extent of stating that the petitioner has not even used the abusive language. Both the driver and conductor deposed that it is the TTIs who assaulted the petitioner and caused bleeding injuries to him. The only legal evidence on the basis of which the enquiry officer held the petitioner guilty was, the evidence of Basi Reddy. Ordinarily, even in the absence of any corroboration from the driver and conductor, the Labour Court would have been justified in accepting his evidence because that would have at least probablised the commission of acts of misconduct by the petitioner if not proved beyond any doubt. But, the Criminal Court, before which the said Basi Reddy gave evidence, disbelieved his evidence. Except the i*psi dixit* of Basi Reddy and the

spot statements recorded by the two TTIs, which were stated to have been attested by the driver and conductor, there was nothing to show that the petitioner either abused or assaulted Sri S.Krishna Murthy, one of the two TTIs.

23. The circumstances, namely; non-examination of Krishna Murthy in the departmental proceedings, the Doctor who examined the petitioner and whose certificate was sought to be relied upon in the criminal case and the Sub-Inspector of Police, who registered the criminal case, make the entire case of the Corporation vulnerable. Moreover, the enquiry officer heavily relied upon the so-called spot statements of the driver and conductor and some of the passengers, who were not examined. The spot statements, not having been marked in evidence, do not constitute legal evidence to be relied upon against the delinquent in the disciplinary proceedings. If the spot statement is eschewed from the evidence and in the absence of the evidence of the Doctor and the Sub-Inspector, there remains the solitary evidence of Basi Reddy, which was not accepted by the Criminal Court. Even by applying the test of preponderance of probabilities, the material on record does not prove the misconduct of the petitioner. I am, therefore, of the considered view that the finding of the disciplinary authority, which is solely based upon the enquiry report and the certificate issued by the Doctor, Sathish Kumar, Assistant Surgeon, who was not examined either in the departmental proceedings or before the Criminal Court, is not sustainable.

24. While arriving at the aforementioned conclusion, I am conscious of the self-imposed limitation placed by the Constitutional Courts on themselves in undertaking judicial review of the disciplinary cases. The aforementioned analysis of evidence was undertaken only to

know whether there was any probability of the petitioner indulging in acts of misconduct as imputed under charge Nos.1 to 4 and not to re-analyze or re-appreciate the evidence on record. Applying even the most liberal test viz., preponderance of probabilities, I am of the opinion that the department failed to prove that the petitioner is guilty of any of the charges.

25. For the aforementioned reasons, the finding that the petitioner is guilty of the charges framed against him by the disciplinary authority and as confirmed by the appellate authority and the Labour Court cannot be sustained and consequently, the penalty imposed on him is liable to be set aside. This necessarily follows that the petitioner is entitled for reinstatement with back wages with all attendant benefits including seniority.

26. In the result, the writ petition is allowed and the award of the Labour Court under challenge, as also the order dated 23.1.1996 of respondent No.2, as confirmed in appeal by the appellate authority, is set aside. The respondent No.2 is directed to reinstate the petitioner within a period of two weeks from the date of receipt of a copy of this judgment.

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C.V. NAGARJUNA REDDY, J

Date:29th August 2007
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[1] AIR 1963 SC 1723
[2] AIR 1975 SC 2151
[3] AIR 1976 SC 1080

[4] AIR 1983 SC 1102

[5] (1996) 6 SCC 750

[6] (2000) 1 SCC 416

[7] AIR 1997 SC 1030

[8] (2006) 2 SCC 584

[9] (1999) 3 SCC 679

[10] (2006) 5 SCC 446